



House of Representatives

General Assembly

File No. 598

January Session, 2007

Substitute House Bill No. 6057

House of Representatives, April 26, 2007

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE INDEMNIFICATION OF AND THE IMPOSITION OF FEES ON STATE MARSHALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 6-30a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) On and after December 1, 2000, each state marshal shall [be
4 required to] carry personal liability insurance for damages caused by
5 reason of such state marshal's tortious acts in not less than the
6 following amounts: (1) For damages caused to any one person or to the
7 property of any one person, one hundred thousand dollars; and (2) for
8 damages caused to more than one person or to the property of more
9 than one person, three hundred thousand dollars. For the purpose of
10 this [section] subsection, "tortious act" means negligent acts, errors or
11 omissions for which [such] a state marshal may become legally
12 obligated to any damages for false arrest, erroneous service of civil
13 papers, false imprisonment, malicious prosecution, libel, slander,
14 defamation of character, violation of property rights or assault and

15 battery if committed while making or attempting to make an arrest or
 16 against a person under arrest, [; provided, it shall] but does not include
 17 any such act unless committed in the performance of the official duties
 18 of such state marshal.

19 (b) The state shall protect and save harmless any state marshal from
 20 financial loss and expense, including court costs and reasonable
 21 attorney's fees, arising out of any claim, demand or suit instituted
 22 against the state marshal for personal injury or injury to property by,
 23 or as a result of the actions of, any person who is lawfully taken into
 24 custody by the state marshal, pursuant to a capias issued by Support
 25 Enforcement Services of the Superior Court and directed to the state
 26 marshal, if such injury occurs when such person, while in such
 27 custody, is transported in a private motor vehicle operated by the state
 28 marshal. In the event a judgment is entered against the state marshal
 29 for a malicious, wanton or wilful act, the state marshal shall reimburse
 30 the state for any expenses incurred by the state in defending the state
 31 marshal and the state shall not be held liable to the state marshal for
 32 any financial loss or expense resulting from such act.

33 Sec. 2. (NEW) (*Effective October 1, 2007*) A state marshal shall not be
 34 charged any fee for performing such state marshal's statutory duties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	6-30a
Sec. 2	October 1, 2007	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
OPM - Litigation Expense Account; Comptroller - Adjudicated Claims Account	GF - Potential Cost	Indeterminate	Indeterminate

Note: GF=General Fund

Municipal Impact: None

Explanation

Section 1 indemnifies state marshals under certain circumstances. It requires the state to pay the costs of litigation and possible settlement of any personal injury or property damage claim against a state marshal, provided that these damages are attributable to a civil arrest (by a state marshal) conducted in accordance with court orders for support enforcement. If any state marshal is found to have caused these injuries or damage through a malicious or negligent act, the state marshal must reimburse the state for its expenses.

Since the scope of the indemnification is limited, relatively few cases are anticipated under the bill. The cost of contracted legal services and other litigation expenses (e.g., expert witnesses) would likely be borne by the Litigation Expense Account within the Office of Policy and Management. Any settlements would be paid from the Adjudicated Claims Account within the Office of the State Comptroller. These costs are expected to occur infrequently. The magnitude of cost for any particular case(s) would vary according to the circumstances, which cannot be predicted.

Section 2 relates to the imposition of fees by private parties and has no fiscal impact because it does not delete Section 6-39m of the Connecticut General Statutes, which provides for a \$250 annual fee to

be paid to the State Marshal Commission and deposited into the General Fund.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6057*****AN ACT CONCERNING THE INDEMNIFICATION OF AND THE IMPOSITION OF FEES ON STATE MARSHALS.*****SUMMARY:**

This bill requires the state to indemnify a state marshal for financial loss and expense, including court costs and reasonable attorney's fees, from any personal or property injury claim that is (1) caused by or based on the actions of someone lawfully taken into custody under a capias from the Superior Court's Support Enforcement Services and (2) occurs while the person is in custody and is transported in the state marshal's private motor vehicle

If the marshal is subject to a judgment because of his or her malicious, wanton, or willful act, the bill requires the marshal to reimburse the state for any expenses incurred in defending the state marshal and the state is not liable to the marshal for any financial loss or expenses.

The bill prohibits charging a state marshal a fee to perform the marshal's statutory duties.

EFFECTIVE DATE: October 1, 2007

BACKGROUND***State Marshals***

By law, state marshals are independent contractors compensated on a fee-for-service basis. They provide legal execution and service of process. The State Marshal Commission fills vacancies in state marshal positions, sets professional standards for them, reviews and audits their records and accounts, and can remove a state marshal for cause after notice and a hearing.

State Marshals' Liability Insurance and Bond

The law requires state marshals to carry personal liability insurance for damages caused by the following conduct: negligent acts, errors, or omissions that the state marshal becomes legally obligated for damages for false arrest, erroneous service of civil papers, false imprisonment, malicious prosecution, libel, slander, defamation, violation of property rights, or assault and battery committed while making or attempting an arrest or against an arrested person. The conduct must occur during the performance of the state marshal's official duties (CGS § 6-30a).

The insurance must cover at least \$100,000 for damage to one person or his property and \$300,000 for damage to more than one person or more than one person's property.

The law also requires the state to pay the premium on a bond state marshals must give the State Marshal Commission. The bond must be \$10,000 for the faithful performance of his duties and for damages based on his unfaithfulness or neglect and \$100,000 if he collects tax warrants for the state or municipalities (CGS § 6-39).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (04/13/2007)